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January 27, 2009

TO: Each Supervisor

FROM: Jonathan E. Fielding, M.D., M.P.H. *JE Fielding*
Director and Health Officer

SUBJECT: **ISSUE ASSOCIATED WITH COUNTY'S POOL AND SPA SAFETY
REQUIREMENTS IN LIGHT OF THE FEDERAL VIRGINIA GRAEME BAKER
POOL SAFETY ACT OF 2007**

This is to inform you of an issue involving the County regulation of commercial swimming pools and spas in light of a new federal law intended to prevent suction-induced entrapment of swimmers in pool drains.

In December 2007, a federal law known as the Virginia Graeme Baker Pool and Spa Safety Act was passed in response to an incident where a child was entrapped due to suction from a pool drain that was missing a drain cover. This law required that by December 19, 2008 all residential and commercial swimming pools and spas be provided with protection against drain entrapment by use of an "anti-entrapment" drain cover, and the installation of either: (1) an automatic pump shut-off system that activates when a drain is blocked; or (2) the installation of a "split main drain" so the suction is dispersed.

It is important to keep in mind that experience has shown the risk of entrapment is quite low. In fact, within Los Angeles County, there have been no reported deaths attributed to entrapment in a commercial swimming pool. Nevertheless, the federal act does require anti-entrapment measures, and our Environmental Health division requires that the design of all new commercial swimming pools include a split main drain.

The Department is charged with enforcing State and County laws and regulations pertaining to commercial swimming pools. The Department has required that all new pools and spas be equipped with a split main drain since 1985 and continues to enforce this requirement. Consistent with the federal act, the Department is now requiring the installation of a "split main drain" on all existing single main drain pools and spas whenever the pool is replumbed, resurfaced, or renovated.

Recently, a manufacturer of an automatic pump shut-off system has argued that the Department should accept the use of its system as an alternative means to comply with federal law. Any existing commercial pool or spa owners who have already installed safety-vacuum-release systems or automatic pump shut-off systems that are currently in compliance with the federal act, are not required by our Environmental Health division to install split main drains. It is the Department's opinion, however, that these vacuum-release systems are not as effective as split main drains.

While there is no data available on the number of commercial pools with split main drains in Los Angeles County, it is estimated that there are approximately 3,000–5,000 at this time, out of a total of 15,400. We have been asked whether County regulation of these pools is likely to delay the opening of public swimming pools and spas this summer. Since we are only requiring the split-main-drain upgrade when a pool is replumbed, resurfaced, or renovated, there should be no such delay for pools not undergoing replumbing, resurfacing, or renovations.

During the past year, local and state jurisdictions across the country have been confused about how to implement the provisions under the federal act. Some of these issues are: an unachievable compliance date, the unavailability of approved anti-entrapment drain covers, and a disagreement over the effectiveness of the alternative methods of compliance.

The State of California and a coalition of county and city environmental health departments are currently working on draft language to incorporate the federal act into State law with a new compliance date. This language may also require installation of a split main drain and anti-entrapment covers as the primary method against entrapment, and identify the alternative methods (e.g., safety vacuum release system, automatic pump shut-off system) as additional layers of protection that may be employed to further reduce the risk.

We will continue to review these issues in consultation with County Counsel and our local / state partners and keep you posted of any significant developments. If you should have any questions in the interim, please let me know.

JEF:ajb

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors